

7.12 WESTLAKE LANDFILL, BRIDGETON, MISSOURI

7.12.1 List of Commenters

NPL-U10-3-14-R7 Correspondence dated 12/21/89 from James G. Gunn of The Stolar Partnership on behalf of John L. May, the Roman Catholic Archbishop of the Archdiocese of St. Louis, Missouri.

NPL-U10-3-20-R7 Correspondence dated 12/22/89 from Scott Schreiber, Regional Engineer, Laidlaw Waste Systems, Inc.

NPL-U10-8-1 Correspondence dated 11/22/89 from Robert Myers, NPL Operations Section, U. S. EPA, Washington, D.C., to Kitti K. Quarfoot of Katten Muchin and Zavis.

7.12.2 Summary of Comments and Response

James G. Gunn of The Stolar Partnership, on behalf of Archbishop John L. May, requested that the site name be changed and that the ground water targets score be re-evaluated. Scott Schreiber of Laidlaw Waste Systems, Inc. also requested that the site name be changed, and incorporated Mr. Gunn's comments. Robert Myers, U.S. EPA, responded to a Freedom of Information Act (FOIA) request from Kitti K. Quarfoot of Katten Muchin and Zavis.

7.12.2.1 Ownership and Name of Site

Messrs. Gunn and Schreiber requested that the site name be changed to Rock Road Industries, which they indicated would more accurately reflect the location and nature of the site.

Mr. Schreiber indicated that the areas of contamination (Areas 1 and 2) "are now largely owned by Rock Road Industries, Inc., in conjunction with certain religious and/or charitable not-for-profit institutions. Neither Laidlaw, nor any of its affiliated corporations have ever owned, or had any responsibility for, Areas 1 and 2." Mr. Schreiber stated that Laidlaw acquired the operational portion of the Westlake Landfill in 1988, but noted that "Laidlaw did not acquire

Site: Westlake Ldf
ID #: MOD 079900932
Break: 1.8
Other: 9-b-90

0714



any interest whatsoever in Areas 1 and 2." The commenter indicated that "[a]t the time of the disposal of the uranium waste, the operator of the site was the Westlake Landfill Inc.," and noted that Laidlaw Waste Systems "...was formerly known as the Westlake Landfill, Inc."

Mr. Gunn remarked that corporations were currently operating on "...property adjacent to or in close proximity to Areas 1 and 2." These corporations may include "West Lake" in their corporate name, but "no entity with the name 'Westlake Landfill' presently exists," according to the commenter. Mr. Gunn noted also that Laidlaw Waste Systems, formerly known as Westlake Landfill, Inc., operates on property adjacent to or in close proximity to Areas 1 and 2.

In response, the names of sites are provided for purposes of identification only. The Agency's opinion is that the site has been known historically as the Westlake Landfill, and that there is no confusion concerning its location or identity. Further, all EPA's records refer to the site by that name, and it is known to the public as such. Moreover, the name "Rock Road Industries" has no connotation or local history. Consequently, the Agency believes that retaining the name "Westlake Landfill" is appropriate.

7.12.2.2 Ground Water Targets

Mr. Schreiber stated that "[t]he maximum scores for ground water use and distance [to nearest well] are not supported by the actual use of ground water in the vicinity." Mr. Gunn stated that the ground water targets score provided an "...inaccurate portrait of the true site conditions, which will distort its priority ranking, and misinform the public." Mr. Gunn further indicated that minimal use is made of ground water in the vicinity of the site because "...only a single well is identified within a mile of the contaminant, and the closest drinking water use cited is at 1.4 miles." Mr. Gunn indicated that the values assigned for distance to nearest well and ground water use do not "fairly reflect" the threat presented by the site.

Mr. Gunn provided as Exhibit B a statement by David Pruitt of the St. Louis County Water Co., as evidence "...that MDNR [Missouri Department of Natural Resources] data regarding public water availability north of the contaminant location was not accurate." The commenter implied that Exhibit B supported his belief that an appropriate score for ground water use is 2. Mr. Pruitt stated that Reference 14 in the HRS documentation record at the time of proposal, which documented conversation between Mr. Pruitt and John Madras, MDNR, regarding the extent of the St. Louis County Water Co. service, "does not present an accurate description of public water availability in this area." Further, Mr. Pruitt indicated that he had reviewed documents indicating the location of water mains, "and in [his] judgment public water service is available in the area in which the Wilfred Hahn well appears to be located."

In response, Mr. Gunn has apparently confused and combined the distance to nearest well and ground water use evaluations, and has explained that the nearest well is not used for drinking water. However, as explained in greater detail below, these two evaluations are considered separately when determining targets for the ground water route.

Mr. Pruitt was quoted in Reference 14 as having stated that the St. Louis County Water Co. "provided no service north of [Route 115] on the Missouri River floodplain." Although he has now indicated in his statement (Exhibit B of Mr. Gunn's comment) that this was not "an accurate description of public water available in this area," no information was provided documenting availability of alternative drinking water to those persons within the 3-mile radius around the site and north of Route 115. Instead, Mr. Pruitt has merely suggested that after reviewing the location of water mains, he has judged that an alternate source of drinking water may be available to the Hahn property. However, the Hahn well was cited as the nearest well to the site, which is evaluated separately from the use made of ground water

drawn from the aquifer of concern within a 3-mile radius of the site. At the Agency's request, a map indicating the extent of the St. Louis County Water Co. water lines was provided and has been added during this response to comment as Reference 21 in the HRS documentation record at the time of promulgation. The map shows that north of the site, along Ferguson Road, Missouri Bottom Road, and Aubuchon Road (within the 2-mile radius around the site), there are no water lines to provide a readily available, unthreatened, alternative source of drinking water. Additionally, References 1, 7, 12, 13, and 20 indicate that at least 15 private drinking water wells are within 3 miles of the facility. While Mr. Pruitt may be correct in stating that an alternate source of ground water is available to the Hahn property, not all residences served by ground water, notably those north of Route 115, have an alternative source of drinking water readily available. Consequently, the Agency believes that it has properly evaluated ground water use, and no change is required as a result of this comment.

Mr. Gunn stated that the value of 3 assigned to the distance to nearest well factor was exaggerated because it was based on a single well (i.e., the Hahn well) identified by the MDNR within 1 mile of the site. He said that no evidence was cited that this well was used for drinking purposes, and noted that the closest well clearly used for drinking water is 1.4 miles from the site.

In response, Section 3.5 of the HRS Users Manual (47 FR 31231, July 16, 1982) indicates that the distance to the nearest well is "measured from the hazardous substance (not the facility boundary) to the nearest well that draws water from the aquifer of concern." The well must be used for drinking or purposes that influence the food chain, such as food production or irrigation, not monitoring or industrial purposes (47 FR 31191, July 16, 1982). References 7, 9, and 20 indicate that the Hahn well is located approximately 2,500 feet north of the buried uranium wastes and supplies water to a greenhouse for raising produce and other purposes, as well as for irrigating crops.

The commenters have provided no data which indicate that the distance to the Hahn well is inaccurate, that the well is not used for irrigation purposes, or that the well does not draw from the aquifer of concern. Mr. Pruitt has indicated that municipal water lines "are located throughout this area," but this fact has no relevance in evaluating the distance to nearest well factor; as explained previously, ground water use and distance to nearest well are considered separately. Consequently, the Agency believes that it has accurately evaluated the distance to nearest well factor. This comment does not affect the HRS score for this site.

7.12.2.3 Potential Risk to Human Health and the Environment

Mr. Gunn indicated that the site contaminants are "essentially site stable, with low migration likelihood," and "in their present state do not pose an imminent or substantial threat to human health or the environment."

In response, while Mr. Gunn states that the contaminants on-site are essentially stable and that the likelihood of migration is low, a release of uranium to ground water at the site was observed (Appendix E of Reference 10). The Agency has previously explained (47 FR 31188, July 16, 1982) its position that an observed release indicates that the likelihood of a release is 100 percent, and that the release of some substances is a good indication that substances at the site can escape, increasing the likelihood of a more substantial subsequent release.

With respect to Mr. Gunn's concern about the lack of an "imminent and substantial threat to human health or the environment," the Court has ruled (Eagle-Picher Industries, Inc. v. EPA, 759 F.2d 922 (D.C. Cir. 1985)) that "the element of 'imminent and substantial danger' is not requisite to the threshold agency action of including a particular facility on the NPL." The Court concluded that:

In our view, it is well within EPA's discretion to decide that, for a determination of "imminent and substantial danger" at a site to have any degree of reliability, that assessment

would have to be based upon a more detailed, complex and thus rather expensive study all out of proportion to the limited, threshold-like goals of the NPL. It is, in our judgment, entirely reasonable for EPA to decide to await the results of in-depth examinations of specific sites before making a determination of "imminent and substantial danger."

As the Court noted, the determination of "imminent and substantial danger" at a site is not assessed during the listing process. Such an assessment is addressed following the listing of sites containing hazardous substances, pollutants or contaminants and is more properly based on significantly more detailed studies, such as an RI/FS, that typically follow listing. Given the limited purpose of the NPL, there are insufficient data to enable EPA to determine what risk the site poses, and it is appropriate to list the site to obtain such information.

Mr. Gunn stated that particulate air monitoring revealed little basis for concern at the site.

In response, EPA did not evaluate the air route for the Westlake Landfill site. Consequently, this comment has no bearing on the HRS score.

Mr. Gunn cited a July 1989 Nuclear Regulatory Commission report which stated that "contamination of water in the bedrock aquifer does not appear likely."

In response, the aquifer of concern was identified as the Missouri River alluvium in the HRS documentation record. The aquifer of concern does not include the bedrock aquifer, and the bedrock aquifer was not evaluated for HRS purposes. No change in the HRS score is required as a result of this comment.

Mr. Gunn noted that radioactivity in off-site water samples has never exceeded applicable guidelines or EPA standards.

In response, on July 16, 1982, when responding to public comments on the proposed HRS (47 FR 31188) and again on September 8, 1983 (48 FR

40665), the Agency rejected the idea that releases within regulatory limits should not be considered "observed releases" under the HRS. As the Agency noted in 1982,

emission or effluent limits do not necessarily represent levels which cause no harm to public health or the environment. These limitations are frequently established on the basis of economic impacts or achievability.

By contrast, an observed release represents a 100 percent likelihood that substances can migrate from the site (47 FR 31188); under the HRS, an observed release has occurred when a contaminant is measured at a significantly higher level than background (Section 3.1 of the HRS Users Manual, 47 FR 31224, July 16, 1982). Even though levels may be lower than regulatory limits, an observed release has nevertheless occurred if the measured levels are significantly higher than background levels. As reported in the HRS documentation record, uranium was observed in wells S-53, S-60, S-75, and D-92 in concentrations significantly greater than background.

7.12.3 Conclusion

The original migration score for this facility was 29.85. Based on the above response to comments, the score remains unchanged. The final HRS scores for Westlake Landfill are:

Ground Water	51.02
Surface Water	8.00
Air	0.00
Total	29.85